



# NASA Procedural Requirements

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**Subject: Grievance System (Revalidated w/Change 1 05/05/2006)****Responsible Office: Office of Human Capital Management**

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## Chapter 2. NASA Procedures and Guidelines

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Grievances and misunderstandings can arise in almost any work situation. Therefore, an employee's initiation of a grievance in good faith should not adversely impact his/her standing with the supervisor or call into question the employee's loyalty or importance to the organization. Likewise, the initiation of a grievance should not automatically reflect negatively on the employee's supervisor or on the activity's general management. Therefore, in accordance with applicable laws and regulations, the provisions of the NASA Grievance System are outlined as follows:

### 2.1. Employee Rights

2.1.1. Right to Representation. An employee may present a grievance with or without representation. A grievant may be advised, represented, and accompanied by a representative of choice, except that the Personnel Director may disallow the choice of an individual for the following reasons:

2.1.1.1. Result in a conflict of interest or position.

2.1.1.2. Conflict with the priority needs of the Agency.

2.1.1.3. Give rise to unreasonable costs.

2.1.2. Right to Present a Grievance. In presenting a grievance, an employee and representative shall be free from restraint, interference, coercion, discrimination, or reprisal.

2.1.3. Right to Official Time to Present a Grievance. Upon request to their respective supervisors, an employee and representative are allowed a reasonable amount of official time to prepare and present a grievance if otherwise in an active duty status with NASA.

2.1.4. Right to Communicate with the Servicing Human Resources Office or a Counselor of the Agency. An employee may seek and obtain information from appropriate sources such as the Human Resources Office and the Equal Employment Opportunity Counselors. Other avenues of redress are found in Appendix D.

2.1.5. Right to Review Grievance File. The grievant and representative may review the grievance file upon making a reasonable request.

### 2.2. Employee Coverage

2.2.1. Employees Covered. Except as provided in paragraph 2.2.2, this grievance system applies to all NASA employees and former employees for whom a remedy consistent with law can be provided.

2.2.2. Employees Not Covered

2.2.2.1. Noncitizens who are recruited overseas and appointed to overseas positions under 5 CFR 8.3, Civil Service Rule VIII.

2.2.2.2. Foreign nationals who are providing services related to the translation or narration of colloquial speech in

foreign languages and appointed under 22 U.S.C. 1451(5).

2.2.2.3. Individuals paid from nonappropriated funds.

2.2.2.4. Employees of the Department of Veterans Affairs appointed under 38 U.S.C. Chapters 73 and 74.

2.2.2.5. Members of the United States Foreign Service as defined by the Foreign Service Act of 1980.

2.2.2.6. Reinstatement and transfer eligibles (current and former employees of other U.S. Government agencies) applying for a position under merit promotion.

2.2.2.7. An employee in an exclusive bargaining unit with a negotiated grievance procedure covering the matter being grieved.

2.2.2.8. An employee in the Office of the Inspector General.

## 2.3. Grievance Coverage

2.3.1. Matters Covered. Except as provided in paragraph 2.3.2, this grievance system applies to any matter of employee concern or dissatisfaction for which personal relief is possible and which is subject to the control of NASA management, including any matter in which an employee alleges that coercion, reprisal, or retaliation occurred against him/her for using this grievance procedure.

### 2.3.2. Matters Not Covered

2.3.2.1. The content of established NASA policy and regulation.

2.3.2.2. A matter that the employee may (a) grieve under a negotiated grievance procedure or (b) file an appeal or other formal challenge for which the following organizations have authority to grant a remedy: the U.S. Merit Systems Protection Board, the U.S. Office of Personnel Management, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission (EEOC). Examples include removals, suspensions for more than 14 days, classification of a position, allegations of discrimination, and unfair labor practices.

2.3.2.3. Nonselection for promotion from a group of properly ranked and certified candidates, a promotion for which competition was previously held, or failure to receive a noncompetitive promotion.

2.3.2.4. A preliminary warning or notice of an action that, if effected, would be covered or excluded from coverage under paragraph 2.3.2.2.

2.3.2.5. The performance evaluation of a Senior Executive Service (SES) appointee; reassignment of SES appointees following their receipt of an unsatisfactory rating; the return of SES career appointees to the General Schedule or other pay system during the 1-year probation period or for less than fully successful performance; failure to be recertified; the conditional recertification of an SES career appointee (reduction in pay accompanying such an action is covered); the termination of an SES career appointee during probation for unacceptable performance.

2.3.2.6. An action terminating a probationary employee or an employee serving a trial period, including the return of an employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position, for failure to successfully complete the probationary period.

2.3.2.7. The substance of performance standards and elements and/or statements of work objectives.

2.3.2.8. Nonadoption of a suggestion or failure to receive, or amount of, a monetary or nonmonetary award including a quality step increase.

2.3.2.9. A decision to grant or not grant an SES, Senior Level (SL), or Scientific or Technical (ST) pay rate increase or rank of meritorious, distinguished performance or other SES award.

2.3.2.10. The payment of, the failure to pay, or the amount of a recruitment bonus, a relocation bonus, a retention allowance (including its termination), or a supervisory differential; or the amount of critical position pay; or failure to request or grant an exception to dual-compensation restrictions.

2.3.2.11. The expiration of a temporary or term appointment or promotion or an SES limited emergency or term appointment on the date specified as a condition of employment at the time the appointment or promotion was made or at termination prior to the date specified, provided the employee was informed in advance of the temporary nature of the promotion, and the employee was returned to the position from which temporarily promoted or to a different position of equivalent grade and pay.

2.3.2.12. The interpretation, application, or effect of collective bargaining agreement provisions.

2.3.2.13. Personal relief that is not personal to the grievant or is subject to management's control.

## 2.4. Grievance Procedures

### 2.4.1. Time Limits for Filing

2.4.1.1. A grievance about a particular act (or occurrence) must be filed within **15 days** of the date of the act or within **15 days** after the employee first became aware or should have become aware of it.

2.4.1.2. A grievance concerning a continuing practice or condition may be filed at any time.

2.4.1.3. Time limits for processing at each step are in Appendix C and paragraphs 2.4.2, 2.4.3, and 2.4.4.

2.4.1.4. The Deciding Official, Human Resources Director, or Fact Finder may extend any timeframe by providing written explanation in the grievance file with a copy to the grievant and representative, if any.

### 2.4.2. Informal Procedure (Step 1)

2.4.2.1. Grievances regarding disciplinary actions such as official reprimand and suspensions of 14 days or less may be filed directly under the formal procedures in paragraph 2.4.3.

2.4.2.2. Employee Actions include the following:

a. Initiate a grievance with the immediate supervisor orally or in writing, making it clear that a grievance is being filed. An employee may request that the second-level supervisor decide the informal grievance by providing justification acceptable to the second-level supervisor.

b. Present all available information, including the issue of concern, and the personal relief sought.

2.4.2.3. Supervisor Actions include the following:

a. Accept the grievance under the informal procedure unless the employee is excluded from coverage in paragraph 2.2.2.

b. Consider the employee's views, seek advice or help, obtain necessary information, and attempt to resolve the matter.

c. Attempt resolution, even if the grievance is not within his/her authority, by going to the person(s) having the authority.

d. Grant (in part or fully) or deny the personal relief requested or otherwise settle the grievance and provide a written decision to the employee within **10 days** from receipt of the grievance; inform the employee that, if dissatisfied with the decision, he/she may submit the grievance under the formal procedure.

e. Advise the employee, in writing, if the grievance is not timely or consists of a matter not covered by the grievance system, but inform the employee that he/she may submit the grievance under the formal procedure.

### 2.4.3. Formal Procedure (Step 2)

2.4.3.1. Employee Actions include the following:

a. Present a formal grievance to the Human Resources Director within **5 days** of receipt of the informal decision.

b. The formal grievance must include the following:

(1) Be in writing.

(2) Contain sufficient detail to identify the basis for the grievance.

(3) Specify the personal relief requested.

(4) Provide a copy of the informal decision, if any, and any other relevant material.

(5) Provide the name, address, and telephone number of the employee's representative, if any.

2.4.3.2. Human Resources Director Actions include the following:

a. Review the grievance for procedural compliance and, if not in compliance (e.g., untimely, excluded from coverage, the relief requested is not personal, or if the grievant did not use the informal procedure (except as noted in paragraph 2.4.2.1)), return the grievance to the employee with written reason(s) within **5 days**.

b. Redirect the grievance in accordance with the negotiated grievance procedure, if appropriate.

c. Send the formal grievance to the Deciding Official with any local implementing instructions within **5 days** of receipt with a copy to the employee.

#### 2.4.3.3. Deciding Official Actions include the following:

a. Establish a grievance file which will ultimately contain, but not be limited to, the following:

- (1) The written grievance (informal and formal).
- (2) The written decisions (informal and formal).
- (3) Copies of all grievance-related documents, such as witness statements, supervisory memoranda, personnel documents, affidavits, and statements submitted to the Deciding Official/Fact Finder.
- (4) Fact Finder's findings if a Fact Finder is used.
- (5) Written explanation for exceeding any time limit(s).

b. Determine if a Fact Finder is needed.

c. Review the grievance file, considering the views of employees and supervisors, to determine if any acceptable resolution can be reached.

d. Issue a written decision (giving the reasons for granting or not granting the personal relief requested) normally within **30 days** of receipt of the formal grievance or **15 days** after receipt of the Fact Finder's report.

#### 2.4.4. Fact Finding

2.4.4.1. The Deciding Official submits a request to the Personnel Director for a Fact Finder within **10 days** of receipt of the grievance. Selection is normally within **10 days** of the request.

2.4.4.2. A Fact Finder has **30 days** to do the following:

a. Review the grievance, eliminate from consideration any matter not covered by the grievance system, and notify the parties accordingly.

b. Conduct an inquiry to clarify the issue(s) involved in the grievance. At his/her discretion, the inquiry may consist of the following:

- (1) Securing any documentary evidence including, but not restricted to, the grievance file.
- (2) Personal interview(s).
- (3) Group meeting(s).
- (4) Any combination of these.

c. Employee Review. On completion of the inquiry, the Fact Finder provides the grievance file, including the Fact Finder's report, to the employee and representative for review and comment. Any comments must be submitted within **5 days** and are attached to the report by the Fact Finder for submission to the Deciding Official.

d. Grievance Decision. Following completion of the inquiry, the Fact Finder provides the report, with comments attached, to the Deciding Official who must issue a final decision within **15 days** of receipt of the report. That decision is final with no provision for further review.

## 2.5. Special Issues

2.5.1. Allegations of Employment Discrimination. If an allegation of unlawful discrimination is made in connection with a grievance, the allegation must be referred for processing under the NASA Discrimination Complaint Processing System in accordance with EEOC regulations, and the grievance process is stopped for those issues related to the allegation of discrimination. Unlawful employment discrimination includes discrimination based on race, color, religion, sex, national origin, age, handicap, and reprisal. Employees covered by collective bargaining agreements follow the procedures within the agreement for processing discrimination complaints.

2.5.2. Performance Appraisal Ratings. The reconsideration process described in the performance appraisal system constitutes the informal grievance procedure. Formal grievances must be filed within **5 days** of receipt of the reconsideration decision.

2.5.3. Group Grievances. A group of employees with a common complaint may present a grievance under the provisions of this NPR. One person must be identified by the group as its representative so the grievance can be handled efficiently and expeditiously. If employees in the group work for different supervisors, the Personnel Director identifies the official to whom the group should present its grievance under the informal procedure. Grievances submitted under the formal procedures, whether submitted by employees individually or as a group, may be considered by the same Deciding Official as a single package.

2.5.4. Grievances Involving Another Center. If a grievance can only be resolved by an official of another NASA

Center, the Human Resources Director at the employee's Center refers it to the Human Resources Director of the other Center. The Workforce Management and Development Division, NASA Headquarters, should be informed when such action occurs.

2.5.5. Grievances Related to Safety. "The NASA Safety and Health Handbook - Occupational Safety and Health Programs" or equivalent should be reviewed in cases involving allegations of unsafe or hazardous practices or conditions.

2.5.6. Grievance Cancellation. A grievance shall be canceled as follows:

2.5.6.1. At the employee's request.

2.5.6.2. Upon termination of the employee's employment with NASA unless the personal relief sought by the employee may be granted after termination of the employment.

2.5.6.3. Upon the death of the employee unless the grievance involves a question of pay.

2.5.6.4. For the employee's failure to furnish necessary information or comply with the grievance system's timeframes and procedures.

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